



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline *Massachusetts*

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 060072

Petitioner, Juan Carlos Villarroel, applied to the Building Commissioner for permission to construct a two-story addition as well as a portico at the front entrance of his dwelling. The application was denied and an appeal was taken to this Board.

On November 15, 2006, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and originally fixed January 4 2007, at 7:15 p.m., as the time and place of a hearing on the appeal in the Selectmen's Conference room on the sixth floor of the Town Hall. Notice of the scheduled hearing was mailed to the Petitioner, to his attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published December 14 and 21, 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **VILLARROEL, JUAN CARLOS & ESPIRANZA, J**

Location of Premises: **139 SOUTH STREET BRKL**
Date of Hearing: **01/04/2007**
Time of Hearing: **7:15 p.m.**
Place of Hearing: **Selectmen's Conference Room, 6th. Floor**

A public hearing will be held for a variance and/or special permit from:

- 1) **5.09.2.j; Design Review, Special Permit Required**
- 2) **5.20; Floor Area Ratio, Variance Required**
- 3) **5.22.3.b.1.b; Exceptions to Maximum Floor Area Ratio, Special Permit Required;** of the Zoning By-Law to construct an addition per plans at 139 SOUTH STREET BRKL.

Said Premise located in a S-7 district.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, this Board held a public hearing.

Although the case was called, the Board heard no testimony and continued the case to Thursday, January 11, 2007 at 7:15 p.m. Present at the continued hearing was Chair, Enid Starr and Board members Lawrence Kaplan and Bailey Silbert.

Mr. Villarroel and his daughter, Valeria, presented the case. They stated that they wished to construct a two-story addition as well as a portico at the front entrance of their home. The project involves expanding the existing garage to accommodate a new entrance and a second floor which will consist of a new closet and a new master bathroom off the existing master bedroom. The exterior will be similar in style to the existing home. A new dormer on the second floor between the existing structure and the addition will provide an office area off the master bedroom. The new portico on the front

entrance will provide protection from the elements and add interest to the front façade. Mr. Villarroel stated that they have been before the Planning Board for Design Review and that they needed relief from Floor Area Ratio Regulations. Mr. Villarroel stated that he had discussed the project with his neighbors and they had no objection. He submitted a list of eleven neighbors who signed in support of the project.

The Chair then called on Adam Serafin, Planner, to present the report of the Planning Board. He stated that the Planning Board had no objection to the construction of the two-story addition and portico to provide the house with an additional 274 sf of habitable space. The additions are consistent with the character of the home, incorporating similar design characteristics. The two-story addition is to the rear of the home and will have minimal impact on surrounding properties. Mr. Serafin outlined the relief required as follows:

Section 5.09.2.j Design Review

A special permit is required for any exterior addition for which a special permit is requested under Section 5.22. All of the design standards in paragraph (d) have been met and comments on the most relevant follow

- a. Preservation of Trees and Landscape – The majority of the improvements will be constructed over already disturbed or developed land (asphalt driveway).
- b. Relation of Buildings to Environment – The proposed addition is to be constructed of similar materials to match those of the existing house.

Section 5.20 Floor Area Ratio

Section 5.22.3.b.1.b Exceptions to FAR Regulations for Residential Units

Under **Section 5.22.3.b.1.b, with amendments adopted in spring 2006**, the Board may allow by special permit an exterior addition up to 120% of the permitted gross floor area so long as the maximum allowed FAR of 120% has not been reached. In this case, the applicant meets the maximum allowed FAR.

	Allowed		Existing	Proposed	Relief
	By Right	By Special Permit			
F.A.R	0.35	0.42	0.34	0.37	Special Permit

Floor Area (s.f.)	2,901	3,481	2,784	3,058	-
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He stated that the Planning Board recommends approval of the plans titled "Addition to 139 South Street", prepared by MSH Architecture Associates, dated 10 October 2006, subject to the following conditions:

- 1. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing dimensions stamped and signed by a registered architect or land surveyor as provided already, and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**
- 2. No portion of the existing garage shall be finished as habitable space.**

The Chair then called on Mr. Frank Hitchcock to deliver the report for the Building Department. Mr. Hitchcock stated that this was a request for a modest addition that needed no setback relief. He said all the applicant needed was two Special Permits; Design Review and floor area relief under Section 5.22.3.b.1.b, exterior addition that is less than or equal to 20% of the permitted gross floor area. Mr. Hitchcock stated that the Building Department had no objection to the proposal, the relief required or the conditions recommended by the Planning Board.

The Board having deliberated on this matter and having considered all the foregoing testimony, concluded that it is desirable to grant the relief requested under § 5.09.2.j and § 5.22.3.b.1.b and made the following findings pursuant to § 9.05 of the zoning by-law:

1. The specific site is an appropriate location for such use, structure, or condition.
2. The use as developed will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing dimensions stamped and signed by a registered architect or land surveyor as provided already, and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.
2. No portion of the existing garage shall be finished as habitable space.

Unanimous Decision of
The Board of Appeals



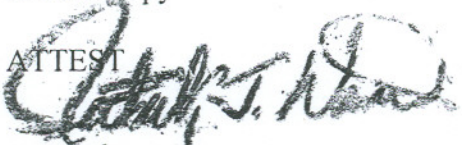
Enid Starr

Filing Date: December 19, 2007

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TOWN OF BURLINGTON
TOWN CLERK
2007 JAN 19 A 8:13

A True Copy

ATTEST



Patrick J. Ward
Clerk, Board of Appeals